

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

RICHARD J. SIMPSON

Plaintiff

CASE NO.: 2:07-CV-12609

vs.

PATRICIA CARUSO, et al.

DISTRICT JUDGE GEORGE CARAM STEEH
MAGISTRATE JUDGE STEVEN D. PEPE

Defendants

ORDER DISMISSING DEFENDANTS' MOTION FOR ACCESS TO MEDICAL RECORDS (DKT. # 79)

On June 19, 2007, Plaintiff filed his complaint pursuant to 42 U.S.C. § 1983 alleging deliberate indifference, retaliation, cruel and unusual punishment and inhumane treatment in violation of his Eighth Amendment Rights (Dkt. # 1).

On September 28, 2007, Defendants Correctional Medical Services, Keith Ivens, M.D., Michael Kennerly, P.A., Jason Yungsup Kim, M.D., Jane May, R.N., Muhammad Mustafa, M.D., William Nelson, M.D., Luis Nino, M.D., and Mohammad Hadid, M.D. ("CMS Defendants"), filed a motion for summary judgment (Dkt. # 58). On October 24, 2007, Plaintiff responded to this motion (Dkt. # 73) and Defendants replied on October 30, 2007 (Dkt. # 74).

On October 31, 2007, Defendants Patricia Caruso, George Pramstaller, Jan Epp, Leslie Wight, Allen (Y. Ellen), Beth Stevens (Stevenson), Mark L. West, Evelyn R. Pietrangelo, Joseph B. Damron, Gerald Covert, Cher J. Luxton, Shirlee Harry, Mark J. Kelly, Tamerla Hamilton, Rhonda K. Cooper, Amy L. MacDowell and Wendy L. Ball ("MDOC Defendants") filed a motion for summary judgment (Dkt. # 75). Plaintiff responded to this motion on November 26, 2007 (Dkt. # 77). On December 13, 2007, the CMS Defendants filed a motion for access to Plaintiff's medical records (Dkt. # 79). All pretrial matters were referred to the undersigned on

August 20, 2007 (Dkt. # 17). For the reasons discussed below, CMS Defendants' motion for access to Plaintiff's medical records is **DENIED**.

On January 16, 2008, the undersigned issued a Report and Recommendation which granted the motions for summary judgment filed by both sets of Defendants (Dkt. # 83). This Report and Recommendation is currently before District Judge Steeh, and if adopted it would obviate the need for CMS Defendants' motion for access to Plaintiff's medical records. If the Report and Recommendation is denied, CMS Defendants may resubmit their motion to the Court. Accordingly, CMS Defendants' motion for access to medical records is **DENIED**.

The parties may object to and seek review of this Order, but they are required to file any objections within ten (10) days of service of a copy hereof as provided for in 28 U.S.C. § 636(b)(1) and E.D. Mich. LR 72.1(d)(2). Failure to file specific objections constitutes a waiver of any further right of appeal. *Thomas v. Arn*, 474 U.S. 140 (1985); *Howard v. Sec'y of HHS*, 932 F.2d 505 (6th Cir. 1991); *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981). Filing of objections which raise some issues but fail to raise others with specificity, will not preserve all the objections a party might have to this report and recommendation. *Willis v. Sec'y of HHS*, 931 F.2d 390, 401 (6th Cir. 1991); *Smith v. Detroit Fed'n of Teachers Local 231*, 829 F.2d 1370, 1373 (6th Cir. 1987).

SO ORDERED.

Dated: February 15, 2008
Ann Arbor, Michigan

s/Steven D. Pepe
United States Magistrate Judge

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing ***Order*** was served on the attorneys and/or parties of record by electronic means or U.S. Mail on February 15, 2008.

s/ Alissa Greer

Case Manager to Magistrate

Judge Steven D. Pepe

(734) 741-2298